

October 25, 2001

Council of the District of Columbia

PUBLIC HEARING ON REAL PROPERTY TAX RELIEF MEASURES

Testimony of Henry Riley, Director, Real Property Tax Administration, Office of Tax and Revenue, before the Committee on Finance and Revenue

Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am Henry Riley, Director of the Real Property Tax Administration at the Office of Tax and Revenue (OTR). I am pleased to testify today on four real property tax-related bills: Bill 14-41, the "Georgia Avenue Façade Improvement Tax Assessment Freeze Act of 2001"; Bill 14-218, the "DC Teachers Federal Credit Union Equitable Real Property Tax Relief Act of 2001"; Bill 14-258, the "Kings Court Community Gardens Equitable Real Property Tax Relief Act of 2001", and Bill 14-279, the "Sidewalk and Curb Assessment Amendment Act of 2001."

Bill 14-41, "Georgia Avenue Façade Improvement Tax Assessment Freeze Act of 2001"

Bill 14-41 provides that real property on Georgia Avenue that completes the Department of Housing and Community Development (DHCD) Georgia Avenue Façade Improvement Program will be "frozen" at the same assessment as the year preceding the improvement for five consecutive tax years. We have a number of concerns with this proposal to raise with you today.

As you know, District of Columbia law requires that all real properties be taxed based on their estimated market values unless specifically exempted from taxation by statute. To arrive at an accurate and fair tax, assessments are performed to determine property value. Assessors employ standard appraisal methods using current real estate market data in one or more of the following approaches: sales comparisons, income capitalization, or a market calibrated cost approach to value. The overriding rule is that assessments of similar properties should be alike to equitably share the tax burden.

This year, the Council adopted legislation phasing out triennial assessments and returning the city to annual real property assessments. This change was made to ensure a more uniform and equitable assessment process and to allow the city to meet its statutory requirement of properly assessing properties at 100% of their estimated market values.¹

Even without this legislation, it will be quite some time before the relevant taxpayers see an increase in their real property assessments. In March 2000, OTR completed the last of the triennial assessments for tri-group 3. Tri-group 3 contains most of the Georgia Avenue neighborhoods, including Brightwood, Petworth, Shepherd Park, and Takoma. Those communities received three-year assessment notices in 2000 and new assessments will not be sent to these taxpayers until March 2003.

There are a number of impediments to freezing assessments for properties that may not otherwise qualify for a tax exemption. First, freezing property assessments on Georgia Avenue while similar properties in the immediate area continue to be assessed would be injurious to the policy of equity and uniformity in assessment. If such an exemption were granted for Georgia Avenue properties, the same exemption should properly and reasonably be granted to all properties in that vicinity and throughout the city that make other improvements to real estate. Needless to say, such a chain of events would significantly impact anticipated tax revenues.

Keeping property taxes down in a rapidly increasing market and encouraging Georgia Avenue property owners to invest in their buildings are laudable goals; however, the incentives for businesses to invest because of this legislation are minimal. Under the bill, a business that invests \$5,000 to rehabilitate the neglected facade of a commercial building would receive annual tax savings of only \$92.50. As a result of the minimal financial incentive, it is our view that the tax savings would not be the motivating force but,

¹ D.C. Code §§ 47-820 and 47-802(4).

rather, the five-year tax assessment freeze. This means that property owners could benefit from the five-year freeze with little noticeable improvement to the businesses along Georgia Avenue. Additionally, if real estate values continue upward, the property owners who participate in this program could face dramatic increases in their assessments at the end of the five-year period, making it more difficult for the Council to return them to a full taxpaying status that is comparable to other businesses.

From an administrative perspective, there is insufficient time within the legislation as currently drafted to develop procedures needed to implement this program. The bill requires that the five-year freeze on assessments on Georgia Avenue be implemented in tax year 2002, which begins January 1, 2002. For this program to be successfully implemented, staff must be trained and adjustments made to OTR real property automated systems. For DHCD, procedures must be developed that verify to OTR that a property has been through the facade program. There are enforcement and compliance implications, as well.

This concludes OTR's testimony on Bill 14-41. I would now like to move to Bill 14-218.

Bill 14-218, "DC Teachers Federal Credit Union Equitable Real Property Tax Relief Act of 2001"

This measure would provide full or partial tax-exemption from real property tax, including penalties, fees, fines and other related charges, assessed on the DC Teachers Federal Credit Union (DCTFCU) property at 903 D Street, NE, Lot 809, Square 938.²

The Office of Tax and Revenue has information on file in respect to this organization's request for exemption from real property tax liability for the property in question. On April 21, 2000, OTR received an application from the DCTFCU seeking a partial exemption from property taxes for the relevant property on the grounds that it is a non-profit and charitable organization under DC Code § 47-1002(8). The applicant also contends that because the credit union is housed in a former public school building and did not pay real property taxes for 20 years while the building was owned by the school system, it should not be subject to property taxes, though DCTFCU now owns the building.

There is considerable allowance under the DC Code for exempting properties from real property taxation. However, in order to qualify, the law requires that the subject property be used specifically and exclusively for certain functions. For a non-profit organization's property to be exempt from District real property taxes, the code states that the property must be used expressly for educational, religious, or charitable purposes, and the charity must have its principle impact in the District of Columbia. I would also like to stress that non-profit status does not automatically confer the right to real property tax exemption in the District. An application must be filed with the Real Property Tax Administration by the owner that confirms the property's use for charitable, educational or religious purposes.

DCTFCU's application for tax exemption was subsequently denied by OTR in a letter to the applicant dated October 6, 2000. The denial was based on the fact that a federal credit union is not a public charity under DC Code § 47-1002(8), nor is a credit union considered a charity under the Internal Revenue Code § 501(c)(3).

The applicant has appealed OTR's denial to the DC Superior Court. A mediation session is scheduled for November 28, 2001. In light of the current litigation, OTR recommends that the Council take no action on this bill until the court action is resolved.

As a matter of policy, however, the Office of Tax and Revenue would encourage policymakers not to support legislation granting real property tax exemption and forgiveness to a particular credit union. The business of a credit union does not meet the test as charitable work under the District or IRS codes.

² The legislation as currently drafted is ambiguous as to whether the exemption would be 100% less than the portion rented for non-exempt purposes, or whether the exemption should be a fraction of 100% regardless of rented space.

Clearly, granting an exemption to one credit union would set a precedent that, if repeated, could have a significant negative impact on city tax revenue. There are a number of other credit unions in the District of Columbia, many of which serve clientele who work in a variety of government, charitable or educational settings, including police, fire department, sanitation, and day care workers. But OTR believes it is the work performed by the credit union – banking – that determines the use of the building, and not the occupations of credit union clients.

That concludes my remarks on Bill 14-218.

Bill 14-258, “King’s Court Community Gardens Equitable Real Property Tax Relief Act of 2001”

Bill 14-258 would provide forgiveness for all real property taxes, interest, penalties, fees and other related charges assessed against the property located at square 1060, lot 30, for the period of tax years 1997 to 2000.

The subject property of this bill is located on 14th Street, SE. It is a vacant, unimproved lot. Taxes are due on this parcel for tax years 1999, 2000 and 2001, representing a debt of \$4,150.26.

The current owner of record is Dayton Investments Inc., not King’s Court Community Gardens. The Office of Tax and Revenue has not received an exemption application from Dayton Investments, Inc. for exemption from real property tax or waiver of fines and penalties. It is OTR’s understanding that Dayton Investments is attempting to transfer the property to the community organization.

The legislative branch may grant exemptions and forgiveness of property tax liabilities; however, the property should be owned by the applicant and used exclusively for the purpose of the organization. If it is Kings Court’s desire to assume ownership of this lot for community use, the organization must first legally acquire the land. The Office of Tax and Revenue is willing to work with the Council and parties involved to accomplish this transfer.

If it is the Council’s desire to grant an exemption, the bill should be amended to allow the forgiveness of prior year taxes, as the property is being transferred from Dayton Investments to the Kings Court community association. The bill should state the exact purpose for which the property shall be used, the name of the owner of the parcel (community association) and its availability to the general public or neighborhood.

That concludes my statement on this bill. I would now like to briefly address the final measure.

Bill 14-279, the “Sidewalk and Curb Assessment Amendment Act of 2001”

This bill would repeal a 100-year-old requirement that abutting property be assessed when new sidewalks or curbs are laid on streets. Essentially, the law requires neighboring properties to contribute to the government’s cost of installing new sidewalks and curbs.

The program is managed by the Department of Public Works (DPW), which is responsible for performing sidewalk and curb installation, identifying abutting properties and assessing the charges. Some years ago, the Office of Tax and Revenue agreed to issue assessment bills to property owners upon request by DPW. However, these instances have been few, and no requests for sidewalk/curb assessment billings have been received at OTR in the past year.

That concludes my testimony. Thank you for this opportunity to testify. I will be happy to answer any questions you may have.